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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,147	11/12/2001	Vincent P. Cooper	0275S-000514	1896

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EXAMINER

BUI, LUAN KIM

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 08/01/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

Office Action Summary	Application No.	Applicant(s)	
	10/007,147	COOPER ET AL.	
	Examiner	Art Unit	
	Luan K Bui	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> . | 6) <input type="checkbox"/> Other: _____ |

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the numeral “52” as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: same numerals such as “a shelf 44” and “a ledge 44”. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3 and 7-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen (6,415,923). Chen discloses a tool storage container comprising a base member (10), a cover (20) pivotally coupled with the base member, a tool receiving member (17) disposed in the base

and an opening (24) in the cover having a shape enabling viewing of the tool positioned in the base with a desired size that prohibits removal of the tool through the cover when the cover and base are coupled together (Figures 1-5).

5. Claims 13, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kirk (1,352,814). Kirk discloses a container comprising a base (1) including a receiving member, a cover (2) pivotally coupled with the base and a finger member (39) adjacent the receiving member. The finger member is movable between a first and a second position for maintaining an article (16) in the receiving member and enabling removal the article from the receiving member (Figure 1). The container of Kirk is inherently capable of receiving the a power tool and the finger is capable of maintaining the tool in the receiving member.

6. Claims 20, 21 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Laszlo (5,366,071). Laszlo discloses a tool storage container (10) comprising a base (12) having a tool receiving member and a storage area (45-48), a cover (18) pivotally coupled with the base and a storage area (30) on the cover including a pivotal cover (32) movable between a covering and non-covering position (Figures 1-2 and column 3, lines 60-68).

7. Claims 27-29, 31 and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen (6,415,923). Chen discloses a tool storage container comprising a base member (20) having a tool receiving member (23), a cover (10) pivotally coupled with the base member including a storage area (17) and a storage ledge (13) pivotally coupled with the cover. The

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storage ledge pivoting between a first position wherein the ledge is substantially parallel to the cover (Figure 2) to a second position wherein the ledge is substantially perpendicular to the cover (Figure 3).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 4, 5, 12, 13, 16, 17, 30 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen (6,415,923) in view of Schurman (4,069,915) and Kirk (1,352,814).

Chen discloses the tool storage container as above having all the limitations of the claims except for a finger being mounted on the base for maintaining a tool in the tool receiving member.

Schurman shows a tool container (10) comprising a base having a tool receiving member for receiving a tool (12) and a finger (50, 52) mounted on the base for maintaining the tool in the tool receiving member (Figures 1-2). Kirk teaches a container comprising a base (1) including a receiving member, a cover (2) pivotally coupled with the base and a finger member (39) adjacent the receiving member. The finger member is movable between a first and a second position for maintaining an article (16) in the receiving member and enabling removal the article from the receiving member (Figure 1). It would have been obvious to one having ordinary skill in the art in view of Schurman and Kirk to modify the container of Chen so the base includes one or more

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fingers mounted on the base for maintaining the tool in the tool receiving member to prevent the tool from moving during shipping and handling.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claim 1 above, and further in view of Ling (6,523,687). The container of Chen fails to show the opening comprises a transparent window cover to enable viewing of the tool. Ling shows a tool storage container comprising a base member (20b), a cover (20a), an opening (24) in the cover and a transparent window cover (25) to enable viewing of a tool within the container. It would have been obvious to one having ordinary skill in the art in view of Ling to modify the container of Chen so the opening includes a transparent window cover to allow visual access to the tool within the container but preventing damaged to the tool from touching the tool.

11. Claims 10, 11, 14, 15, 18, 19 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claim 8 above, and further in view of Lee (6,237,767). Chen further discloses the cover comprises a storage area (23). Chen fails to show the storage area includes a cover. Lee shows a tool box (10) comprising a base (11) and a cover (12) includes at least one storage area (18) and each storage area comprises a cover (Figure 1). It would have been obvious to one having ordinary skill in the art in view of Lee to modify the container of Chen so the storage area in the cover includes a cover for better securing items within the storage area.

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12. Claims 22-24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laszlo (5,366,071) in view of Schurman (4,069,915) and Kirk (1,352,814). Laszlo discloses a tool storage container (10) comprising a base (12) having a tool receiving member and a storage area (45-48), a cover (18) pivotally coupled with the base and a storage area (30) on the cover including a pivotal cover (32) movable between a covering and non-covering position (Figures 1-2 and column 3, lines 60-68). Laszlo further discloses the base including at least one storage area (17) pivotable with respect to the base and a cover (42) for each of the at least one storage area. Laszlo also discloses the other claimed limitations except for being mounted on the base for maintaining a tool in the tool receiving member. Schurman shows a tool container (10) comprising a base having a tool receiving member for receiving a tool (12) and a finger (50, 52) mounted on the base for maintaining the tool in the tool receiving member (Figures 1-2). Kirk teaches a container comprising a base (1) including a receiving member, a cover (2) pivotally coupled with the base and a finger member (39) adjacent the receiving member. The finger member is movable between a first and a second position for maintaining an article (16) in the receiving member and enabling removal the article from the receiving member (Figure 1). It would have been obvious to one having ordinary skill in the art in view of Schurman and Kirk to modify the container of Laszlo so the base includes fingers mounted on the base for maintaining the tool in the tool receiving member to prevent the tool from moving during shipping and handling.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (703) 305-5861. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to TC 3700 Customer Service at (703) 306-5648.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 872-9301. Facsimile correspondence for this application should be sent to (703) 872-9302 for Formal papers and (703) 872-9303 for After Final communications.

lkb
July 25, 2003



Luan K. Bui
Primary Examiner